



FISCAL MEMORANDUM

HB 2009 - SB 2087

March 7, 2022

SUMMARY OF BILL AS AMENDED (014828): Punishes certain aggravated assault offenses one classification higher if the offense was committed by discharging a firearm from within a moving vehicle.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Expenditures – \$38,600 Incarceration

Assumptions for the bill as amended:

Aggravated Assault

- Tennessee Code Annotated § 39-13-102(a)(1)(A)(iii) establishes that a person commits aggravated assault who intentionally or knowingly commits an assault that involves the use or display of a deadly weapon.
- Pursuant to Tenn. Code Ann. § 39-13-102(e)(1)(A)(ii), aggravated assault is a Class C felony offense with a mandatory minimum sentence of 90 days incarcerated and a mandatory fine of \$15,000.
- The proposed legislation punishes such an offense one classification higher if the offense was committed by discharging a firearm from within a moving vehicle.
- Based upon information provided by the Department of Correction (DOC), there has been an average of 787.3 admissions in each of the last 10 years for the offense of aggravated assault.
- However, these admissions include offenses under Tenn. Code Ann. § 39-13-102(a)(1)(A)(i)-(iv). It is assumed that 25 percent or 196.8 (787.3 x 25.0%) of these admissions involved the use or display of a deadly weapon.
- It can be reasonably assumed that 10 percent or 19.68 of such admissions were committed by discharging a firearm (196.8 x 10.0%) and a further 10 percent or 1.97 (19.68 x 10.0%) of such admissions were committed by discharging a firearm from within a moving vehicle and will be classified as a Class B felony as a result of the proposed legislation.
- The estimated average time served for aggravated assault is 1.66 years, after adjusting for pre-trial jail credits. The average time served for a Class B felony is 3.27 years.
- Accounting for recidivism rates, the proposed legislation will result in 1.14 admissions annually serving an additional 1.61 years (3.27 – 1.66).
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.74 percent per year for each of the past 10 years (from 2010 to 2020).

- The weighted average operational costs per day are estimated to be \$51.36 for inmates housed at state facilities and \$48.77 for inmates housed at local facilities.
- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 200	FY22-23
\$ 7,700	FY23-24
\$ 29,100	FY24-25
\$ 35,000	FY25-26
\$ 35,300	FY26-27
\$ 35,800	FY27-28
\$ 36,000	FY28-29
\$ 36,200	FY29-30
\$ 36,500	FY30-31
\$ 37,000	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring costs increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$37,000.

Reckless Aggravated Assault

- Tennessee Code Annotated § 39-13-102(a)(1)(B)(iii) establishes that a person commits reckless aggravated assault who recklessly commits an assault that involves the use or display of a deadly weapon.
- Pursuant to Tenn. Code Ann. § 39-13-102(e)(1)(A)(v), reckless aggravated assault is a Class D felony offense with a mandatory minimum sentence of 90 days incarcerated and a mandatory fine of \$15,000.
- The proposed legislation punishes such an offense one classification higher if the offense was committed by discharging a firearm from within a moving vehicle.
- Based upon information provided by the DOC, there has been an average of 75.9 admissions of reckless aggravated assault in each of the last 10 years.
- However, these admissions include offenses under Tenn. Code Ann. § 39-13-102(a)(1)(B)(i)-(iii). It is assumed that 25 percent or 18.98 (75.9 x 25.0%) of these admissions involved the use or display of a deadly weapon.
- It can be reasonably assumed that 10 percent or 1.89 (18.98 x 10.0%) of such admissions were committed by discharging a firearm and a further 10 percent or 0.19 (1.89 x 10.0%) of such admissions were committed by discharging a firearm from within a moving vehicle and will be classified as a Class C felony as a result of the proposed legislation
- The estimated average time served for reckless aggravated assault is 0.94 years, after adjusting for pre-trial jail credits. The average time served for a Class C felony is 1.59 years.

- Accounting for recidivism rates, the proposed legislation will result in 0.13 admissions annually serving an additional 0.65 years (1.59 – 0.94).
- According to the DOC, 32.48 percent of offenders will re-offend within two years of their release. A recidivism discount of 32.48 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.74 percent per year for each of the past 10 years (from 2010 to 2020).
- The weighted average operational costs per day are estimated to be \$51.36 for inmates housed at state facilities and \$48.77 for inmates housed at local facilities.
- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 200	FY22-23
\$ 1,600	FY23-24
\$ 1,600	FY24-25
\$ 1,600	FY25-26
\$ 1,600	FY26-27
\$ 1,600	FY27-28
\$ 1,600	FY28-29
\$ 1,600	FY29-30
\$ 1,600	FY30-31
\$ 1,600	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring costs increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$1,600.
- The recurring increase in incarceration expenditures will be \$38,600 (\$37,000 + \$1,600).
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/vh